

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-06-2007

CORAM :

THE HONOURABLE MR.JUSTICE A. KULASEKARAN

W.P. No. 15890 of 2007

-o-

P. Rathinasabapathy

.. Petitioner

Versus

1. The State of Tamil Nadu
rep. By its Secretary to Government
Local & Municipal Administration Department
Fort St. George
Chennai - 600 009

2. The District Collector
Cuddalore District
Cuddalore

3. The Commissioner
Chidambaram Municipality
Cuddalore District

... Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Mandamus as stated therein.

For Petitioner : Mr. M. Prabhakar

For Respondents : Mr. Bhavani Subbarayan
Government Advocate

ORDER

This writ petition is listed today for admission and I heard the counsel for both sides.

2. The petitioner has come forward with this writ petition praying for a Writ of Mandamus directing the respondents to implement the orders of the third respondent under Na.Ka.No. 3969/ 2005/F-1 dated 06.07.2005 and 14.08.2006 for demolishing the dilapidated building situated in T.S. No. 211/1, 211/2 and 212 of Ward No.5, Block No.4 and bearing Old Door No.8 and 8-A, New Door No.17 and 17/1, Malaikatti Street, Chidambaram - 608 001, Cuddalore District.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The facts involved in this case is that the petitioner is the owner of the building at Door No.10,

Malaikatti Street, Chidambaram. The residence of that area said to have given a complaint to the third respondent stating that the said building is in a dilapidated condition and would collapse at any time. Thereafter, the third respondent deputed the municipal inspector to cause inspection of the building and on 16.06.2005, after inspection, the said municipal inspector submitted his report to the third respondent. Based on the said report, invoking Section 218 of the Tamil Nadu District Municipalities Act, 1920, hereafter referred to as Act, the third respondent issued a notice dated 06.07.2005 addressed to "The Proprietor, Karthikeyan Steels", hence, on 20.07.2005, the petitioner has sent his objection to the third respondent stating that he is the owner of the property and expressed his readiness to demolish and remove the existing building. Since the petitioner has not removed the building, the third respondent has sent another notice dated 14.08.2006 under Section 218 of the Act to the petitioner calling upon him to demolish and remove the building within 15 days, for which, the petitioner has sent a reply dated 11.09.2006 informing his inability to demolish the building since the tenants, occupying the portion of the building are not prepared to vacate. The petitioner also issued notice dated 17.12.2006 to the tenants calling upon them to vacate and handover vacant possession of the property. On 17.12.2006, the petitioner also sent a notice calling upon the third respondent to take action under Section 218 of the Act, but there is no response, however, the third respondent has given a reply dated 29.01.2007, wherein in para-7, it was stated thus:-

"7. Acting on the report and opinion of the competent expert engineer, regarding the strength of the building, the Municipality is of the considered opinion that the structure is not imminently dangerous and in ruined condition and that no immediate action is necessary on the part of the municipality to take action."

4. The present writ petition has been filed praying for a Writ of Mandamus to direct the respondents to implement the orders of the third respondent dated 06.07.2005 and 14.08.2006 for demolishing the dilapidated building.

5. It is necessary to mention that the petitioner has not challenged the communication dated 29.01.2007 of the third respondent wherein the third respondent has expressed its view that it is not a fit case to invoke the provisions of Section 218 of the Act. The other vital factor in this case is that the petitioner has given notice to the tenants who are in occupation of the building, but they were not arrayed as parties in this writ petition. Once notice is issued to the tenants on the ground that immediate demolition is warranted for which even they have not responded, still, they are necessary parties. Moreover, the third respondent's latest

view that the building is not in ruined condition is unchallenged.

6. In view of the above disputed facts, this Court is not inclined to grant any relief sought for in this writ petition under Article 226 of the Constitution of India, however, it is open to the petitioner to approach the competent Court to seek appropriate relief in accordance with law.

7. In the result, the writ petition is dismissed. No costs. It is made clear that this Court is not expressing any opinion about the structural stability of the building in dispute.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government, State of Tamil Nadu
Local & Municipal Administration Department
Fort St. George
Chennai - 600 009

2. The District Collector
Cuddalore District
Cuddalore

3. The Commissioner
Chidambaram Municipality
Cuddalore District

+1cc to Mr.M.Prabhakar, Advocate Sr 35698

+1cc to Govt. Pleader Sr 36125

SR (CO)
km/2.7.